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10/618,806	07/14/2003	Mark Roby	2910	5794
7590 03/20/2007 TYCO HEALTHCARE GROUP LP 150 GLOVER AVENUE NORWALK, CT 06856			EXAMINER RICCI, JOHN A	
			ART UNIT 3711	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/618,806
Filing Date: July 14, 2003
Appellant(s): ROBY ET AL.

MAILED
MAR 20 2007
GROUP 3700

Dana A. Brussel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 5, 2006 appealing from the Office action mailed April 5, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(1) U.S. Patent 5,733,293 to Scirica et al., issued March 31, 1998;

(2) U.S. Patent 4,928,830 to Brewer, issued May 29, 1990.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scirica 5,733,293 in view of Brewer 4,928,830.

Scirica shows a package for a needle and Suture (figure 3A), including a base portion 66, cover 68, a needle park, a rail 74 defining a suture race 70, and an aperture 72 for passage of the suture. The cover is retained by tabs 76, and is completely removable; this has the disadvantage that the cover may be lost or misplaced. One would recognize that it would be desirable to attach the cover to the base so the cover cannot be lost. For example, Brewer shows that a container for medical equipment may have a base 22, and a cover 24 attached to the base by means of a living hinge 26 (figure 2). This would be desirable in the suture package of Scirica to prevent the cover from being lost. It would have been obvious to one of ordinary skill in the art to attach the base and cover of Scirica by a living hinge, as suggested by Brewer.

(10) Response to Argument

Applicant suggests that the package shown by Scirica would only be used once, then discarded; there would be no motivation to include a hinged cover such as shown by Brewer, because the package of Scirica would not be repeatedly opened and closed. However, there does not appear to be any feature of the device of Scirica, that would preclude repeated use; it would be possible to re-use the container after cleaning. Even if the container were to be used only once, using a hinged cover would be desirable to keep the components together during storage and processing. The container of Brewer is in the same field of medical and surgical equipment, and would have suggested to one of ordinary skill in the art that a suture container would benefit from the hinged cover.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

John A. Ricci

Primary Examiner, Art Unit 3711


John A. Ricci

Conferees:

Eugene Kim 

Boyer Ashley 